

HOUSE BILL 202

Unofficial Copy  
M2

2004 Regular Session  
(4lr1171)

ENROLLED BILL

-- Environmental Matters/Education, Health, and Environmental Affairs --

Introduced by **Delegates Owings, Bohanan, Boutin, Cane, Cluster, Donoghue,  
Frush, Harrison, Hennessy, Jameson, Jennings, McIntosh, Minnick,  
Mitchell, O'Donnell, Rudolph, Sossi, Weir, and Wood**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Department of Natural Resources - Finfishing - Closure of State Waters**

3 FOR the purpose of ~~prohibiting~~ authorizing the Department of Natural Resources  
4 ~~from completely closing to close~~ an area of State waters to all finfishing ~~unless~~  
5 if the Department satisfies certain requirements; requiring the Department to  
6 publicize in certain ways certain information regarding certain public hearings  
7 and to make a certain report available at a certain time; requiring the  
8 Department to prepare a certain report at certain times; ~~requiring the~~  
9 ~~Department to reopen a certain area under a certain circumstance~~; providing for  
10 the application of this Act; and generally relating to certain closures of State  
11 waters to finfishing.

12 BY adding to

13 Article - Natural Resources

14 Section 4-215.1

1 Annotated Code of Maryland  
2 (2000 Replacement Volume and 2003 Supplement)

3 Preamble

4 WHEREAS, The waters of Maryland are among the State's most renowned  
5 resources; and

6 WHEREAS, Effective assessment, management, and planning in the  
7 conservation of Maryland waters are vital tools in the protection of the aquatic  
8 environment; and

9 WHEREAS, There are more than 700,000 Maryland recreational anglers, and  
10 recreational fishing is the most popular outdoor sporting activity in the State; and

11 WHEREAS, Recreational fishing provides more than 11,000 jobs in the State in  
12 the retail, wholesale, and manufacturing sectors, and its average annual total  
13 economic output is estimated to surpass \$1.06 billion; and

14 WHEREAS, Commercial fishing contributes an additional estimated economic  
15 output of \$100.4 million per year, and 7,600 licensed harvesters, 225 dealers, and  
16 more than 2,000 processing jobs rely on the productivity of State waters for their  
17 livelihoods; and

18 WHEREAS, These commercial fisheries supply hundreds of local and national  
19 restaurants and retail seafood outlets with the high quality seafood for which  
20 Maryland is world famous; and

21 WHEREAS, The conservation of the State's aquatic resources and fisheries is in  
22 the best interests of all of Maryland's citizens, and the General Assembly regards  
23 fishing in Maryland waters as critical to the State's economy and way of life; and

24 WHEREAS, The sports fishery and commercial fishery alike have historically  
25 demonstrated sound conservation ethics by seeking and supporting effective fishery  
26 management plans and by participating in voluntary research and educational  
27 outreach programs; and

28 WHEREAS, The General Assembly desires to establish a process to govern the  
29 complete closure of an area of State waters to all finfishing throughout the year; now,  
30 therefore,

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
32 MARYLAND, That the Laws of Maryland read as follows:

33 **Article - Natural Resources**

34 4-215.1.

35 (A) THE PROVISIONS OF THIS SECTION DO NOT APPLY IF;

1           (1)     THE DEPARTMENT OF THE ENVIRONMENT HAS DETERMINED THAT  
2 IT IS NECESSARY TO CLOSE AN AREA OF STATE WATERS TO FINFISHING FOR THE  
3 PROTECTION OF THE PUBLIC HEALTH AND SAFETY;

4           (2)     AN ABATEMENT OR A SUMMARY ABATEMENT OF A STATE OF  
5 NUISANCE IS NECESSARY UNDER § 4-205.1 OF THIS SUBTITLE; OR

6           (3)     THE DEPARTMENT CLOSES AN AREA OF STATE WATERS:

7                 (I)     FOR THE STOCKING OF COLDWATER TROUT; OR

8                 (II)    IN ORDER TO PROVIDE A SECURITY ZONE ADJACENT TO A  
9 PRODUCTION HATCHERY.

10       (B)     THE DEPARTMENT MAY ~~NOT~~ COMPLETELY CLOSE AN AREA OF STATE  
11 WATERS TO ALL FINFISHING ~~UNLESS IF~~ THE DEPARTMENT:

12           (1)     IN A WRITTEN REPORT MADE AVAILABLE TO THE GENERAL PUBLIC:

13                 (I)     ~~FINDS~~ MAKES A FINDING THAT THE CLOSURE IS NECESSARY,  
14 AFTER DUE CONSIDERATION OF:

15                             1.     THE SCIENTIFIC BASIS FOR THE ~~FINDING~~ CLOSURE;

16                             2.     THE PURPOSE OF THE CLOSURE;

17                             3.     THE RATIONALE FOR THE SELECTION OF THE SPECIFIC  
18 AREA TO BE CLOSED;

19                             4.     THE SUFFICIENCY OF THE AREA CLOSED TO GENERATE  
20 THE BENEFITS PROJECTED; AND

21                             5.     THE LIKELIHOOD THAT THE SAME OBJECTIVE COULD BE  
22 EFFECTIVELY ACCOMPLISHED THROUGH THE USE OF ALTERNATIVE MANAGEMENT  
23 MEASURES; AND

24                 (II)    DEVELOPS PROTOCOLS AND A REPORTING TIMELINE TO  
25 MONITOR AND EVALUATE THE EFFECTIVENESS OF THE CLOSURE; AND

26           (2)     HOLDS AT LEAST ONE PUBLIC HEARING IN ACCORDANCE WITH THE  
27 REQUIREMENTS UNDER SUBSECTION ~~(C)~~ (D) OF THIS SECTION.

28       (C)     THE REPORTING TIMELINE REQUIRED UNDER SUBSECTION (B)(1)(II) OF  
29 THIS SECTION SHALL PROVIDE FOR A WRITTEN REPORT AS OFTEN AS APPROPRIATE  
30 UNDER THE CIRCUMSTANCES BUT AT LEAST AS OFTEN AS EVERY 3 YEARS FROM THE  
31 DATE OF CLOSURE.

32       ~~(C)~~   (D)   (1)     FOR 2 SUCCESSIVE WEEKS IN ADVANCE OF A PUBLIC HEARING  
33 REQUIRED UNDER SUBSECTION (B)(2) OF THIS SECTION, THE DEPARTMENT SHALL:

1 (I) POST A NOTICE OF THE DATE, TIME, PLACE, AND PURPOSE OF  
2 THE HEARING IN A PROMINENT POSITION ON THE DEPARTMENT'S OFFICIAL  
3 INTERNET WEBSITE; AND

4 (II) ADVERTISE THE DATE, TIME, PLACE, AND PURPOSE OF THE  
5 HEARING IN AT LEAST:

6 1. ONE NEWSPAPER OF GENERAL DAILY CIRCULATION IN  
7 THE STATE; AND

8 2. ONE NEWSPAPER CIRCULATED IN THE AFFECTED REGION  
9 OF EACH COUNTY IN WHICH WATERS MAY BE DIRECTLY AFFECTED BY THE  
10 PROPOSED CLOSURE.

11 (2) AT LEAST 15 DAYS BEFORE THE PUBLIC HEARING, THE DEPARTMENT  
12 SHALL MAKE AVAILABLE TO THE GENERAL PUBLIC THE REPORT REQUIRED UNDER  
13 SUBSECTION (B)(1) OF THIS SECTION.

14 ~~(D)~~ (E) ~~(1)~~ ~~WITHIN 3 YEARS OF FOLLOWING A CLOSURE OF A CLOSURE OF~~  
15 STATE WATERS UNDER THIS SECTION ~~AND AT LEAST EVERY 3 YEARS THEREAFTER,~~  
16 IN A WRITTEN REPORT MADE AVAILABLE TO THE GENERAL PUBLIC AND IN  
17 ACCORDANCE WITH THE REPORTING TIMELINE ESTABLISHED UNDER SUBSECTION  
18 (B)(1)(II) OF THIS SECTION, THE DEPARTMENT SHALL:

19 ~~(1)~~ (1) BASED ON THE PROTOCOLS ADOPTED UNDER  
20 SUBSECTION (B)(1)(II) OF THIS SECTION, EVALUATE THE EFFECTIVENESS OF THE  
21 CLOSURE IN ACCOMPLISHING ITS OVERALL MANAGEMENT OBJECTIVES; AND

22 ~~(2)~~ (2) DETERMINE WHAT, IF ANY, MANAGEMENT  
23 MODIFICATIONS WOULD BE APPROPRIATE, INCLUDING THE REOPENING OF THE  
24 CLOSED AREA.

25 ~~(2)~~ ~~IF THE DEPARTMENT DOES NOT TIMELY REPORT ON A CLOSED AREA~~  
26 ~~AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT~~  
27 ~~SHALL PROMPTLY REOPEN THE AREA.~~

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
29 construed to apply only prospectively and may not be applied or interpreted to have  
30 any effect on or application to any finfish management plan or any amendment to an  
31 approved finfish management plan adopted before the effective date of this Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
33 effect June 1, 2004.

